

**CAMERON JONES
HUSSELL & HOWE LTD
SOLICITORS**

DOMESTIC VIOLENCE

INTRODUCTION

Cameron Jones Hussell & Howe Ltd is a local Firm providing a comprehensive range of legal services to the general public. We aim to provide an effective and efficient service in a friendly and approachable manner, and to combine modern ideas and technology with the traditional values of a family practice. This leaflet explains how we deal with domestic Violence matters.

YOUR MATTER EXPLAINED

We appreciate that when Domestic Violence occurs this can be a traumatic event. We also appreciate that this can be an upsetting and difficult time for you. We will endeavour to assist in dealing with matters sympathetically and will do our best to provide you with an efficient and effective service. It is also part of our job to monitor the progress of your matter and to keep you informed as to how matters are proceeding.

DOMESTIC VIOLENCE

What is Domestic Violence?

Domestic violence does not just mean physical contact, but is now understood to include threatening behaviour, violence or violence (including psychological, physical, sexual, financial or emotional violence) between persons who are, or have been intimate, family members or members of the same household, regardless of gender or sexuality.

THE FAMILY LAW ACT 1996

There are two types of remedies available under the Family Law Act 1996 to deal with domestic violence. These are occupation and non-molestation orders. In order to apply for an order under this Act, you and the person against whom you are applying must be associated persons. Associated persons are defined as those who:

1. Are or have been married to each other or are civil solicitors of each other.
2. Are cohabitants or former cohabitants.
3. Have lived in the same household other than by reason of one of them being the other's employee, tenant, lodger or boarder.
4. Are relatives (and this is closely defined by the Act).
5. Have agreed to marry one another or enter into a civil solicitorship agreement (whether or not that agreement has been terminated) (but not later than three years after termination).
6. Are parents or have, or have had parental responsibility for a particular child or children.
7. Are parties to the same family proceedings.
8. Are two persons who have or have had an intimate personal relationship with each other which is or was of significant duration.

What is an Occupation Order?

- a. An Occupation Order if granted by the Court will entitle you to remain in occupation of the family home against the other person.
- b. Require the other person to permit you to enter and remain in the dwelling house or part of the dwelling house;
- c. Regulate the occupation of the dwelling house by either or both parties;
- d. If the other party is entitled to occupy the dwelling house, prohibit, suspend or restrict the exercise by him of his right to occupy the dwelling house;
- e. If the Respondent has matrimonial home rights in relation to the dwelling house and the Applicant is the other spouse restrict or terminate those rights;
- f. Require the Respondent to leave the dwelling house or part of the dwelling house;
- g. Exclude the Respondent from a defined area in which the dwelling house is included.

The type of Occupation Order that can be made and the criteria for granting the Order depends on the relationship between the parties and the legal rights that either of them has to occupy the home.

A Power or Arrest can be attached to an occupation Order and should be where the Court is satisfied that violence has been used or threatened.

What is a Non Molestation Order?

This will usually be an Order forbidding a person from using or threatening violence, intimidating, harassing or pestering the applicant or a relevant child, and from instructing, encouraging or suggesting that any other person should do so.

Breach of a Non-Molestation Order is a criminal offence, and as such, no separate power of Arrest can be attached to a Non-Molestation Order.

In some cases an Order can be applied for without notice being given to the other party, but there Orders will usually be in place for a short time only, and the other party will be given a chance to contest the proceedings at a later date.

Protection from Harassment Act 1997

The police are able to charge persons who pursue a course of conduct which amounts to harassment of another, and which he knows or ought to know amounts to harassment of the other.

Harassment includes alarming the other person or causing them distress and conduct includes speech.

A criminal Court can make a Restraining Order where they deal with someone convicted of such an offence, or even if a person is acquitted of such an offence.

A victim of a course of conduct amounting to harassment can also bring a civil claim for an injunction. If an injunction is granted, and there is a breach, then the person with the benefit of the injunction may apply for a warrant for the arrest of the other party.

COSTS

If your matter is being legally aided then we will have set out the full position in an accompanying letter.

If you are paying our costs privately then you will have received a letter setting out our charging rates and providing you with an estimate of costs, and a request for payment on account of costs.

Please note that we cannot accept payments in excess of £500.00 in cash, but would need such payments to be made by cheque, standing order, bankers draft or bank transfer.

If you do have any concerns about the costs you may have a right to object to the bill by applying to the court for an assessment of the bill under Part III of the Solicitors Act 1974. Details available upon request.

IDENTIFICATION

It is our standard practice these days to request all clients to provide satisfactory evidence of identity. We enclose herewith a list of the items which are acceptable for establishing this. Please would you be good enough to call at the Office at an early stage bringing with you suitable identification for photocopying. Occasionally, we may be asked by third parties to produce evidence of your I.D. (e.g. by the Developer's Solicitors if you are purchasing a brand new property) and we will assume unless you advise us to the contrary that you have no objection to us passing on details of your I.D. in such case.

COMPLAINTS

We do of course very much hope that you will not have cause to complain about the services which you receive from us. If you do however have any concerns about the way in which your matter is being handled, the costs presented to you or about our services generally, we should be grateful if you would please in the first instance contact the Fee Earner having the overall conduct of this matter in order to discuss your complaint. Should we be unable to resolve any complaint raised by you by this method, then we will ask you to put the complaint in writing to our Complaints Manager, John Hussell. He will then deal with the complaint from that point, providing you with full details of our complaints procedures. If your complaint is regarding a matter that he has conducted, then Mrs Sally Kingsbury will deal with the complaint. If you are still not satisfied you can contact the Legal Ombudsman (www.legalombudsman.org.uk). Tel: 0300 555

0333. Or you can email them at enquiries@legalombudsman.org.uk

Any complaint to Legal Ombudsman must usually be made within six months of receiving a final written response from us.

The Legal Ombudsman may not consider a complaint about the bill if a client has applied to the court for assessment of the bill.

CONFIDENTIALITY

We will not discuss your business or disclose the contents of your file to any third party without your written consent except that:-

- Unless you instruct us otherwise, your file may be used for auditing or monitoring purposes and
- We are legally obliged under the Proceeds of Crime Act 2002 and other similar legislation to report any knowledge or suspicion of money laundering to the National Criminal Intelligence Service

CONCLUSION

We hope that the above notes and observations are helpful to you and will assist you in understanding how this matter is being dealt with. Please retain it for reference and if you have any comments or observations about our services then please do not hesitate to let us know.

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This leaflet is intended as a guide for existing clients of Cameron Jones Hussell & Howe Ltd. It is not intended to be a detailed statement of the law nor does it obviate the need to take detailed legal advice